

Judges: Tegene Getaneh
Desta Gebru
Aseged Gashw

Defendants: Daniel Bekele
Netsanet Demesse
Kasahun Kebede

Respondent: Prosecutor

Decision

The Federal High Court denied the right to bail of the defendants. The defendants send a letter appealing to the decision. The court called the defendant and the prosecutor to listen to their appeal however the prosecutor did not appear to court on that day. So the court decided to see the case in the absence of the prosecutor.

The prosecutor send a letter saying that they did not appear to court due to a problem and said the rule given without listening our response would mislead the justice process. The said a messenger gave the Subpoena to a prosecutor who is not related to this case. On the other hand the defendants said the court should not accept the reason of the prosecutor.

We have decided to reject the prosecutor's request.

Decision

The following is the appeal of defendants rejecting the decision made on them for denying their bail right.

1. due process of law and rule of law was violated
2. presumption of innocence and fundamental fairness is violated
3. The situation on the criminal codes no 63, which allow denying the right to bail is not practical in our case. We should not be responsible for the lose of life before the enquiry commission finishes it's investigation whether the government used excessive force or not during the riot. According to the criminal code, if find guilty the defendants will be penalised to 3 -25 years of imprisonment or death. However according to the criminal code no. 63, to deny the right to bail the penalty should be at lease15 yeas of imprisonment. There fore the case does not apply to us.
4. On the accusation file there is nothing related to killing. There fore criminal code no 63 should no be included.
5. The court should not deny our right to bail without investigating the evidence of the prosecutor.

We have looked the reasons to deny the bail rights of the defendants and other related legal issues. The defendants said due process of law and rule of law is violated since the

court refused to look into the case of the prosecutor's accusation that request to deny the defendant's bail right. The court denied the bail rights of the defendants since the criteria of criminal code no 63 was met.

Denial of defendant's bail rights does not mean that the defendant's right to be presume innocent and fundamental fairness is violated. If this was the case there was no need to put bail right on the criminal code. There fore the allegation presented in this case is baseless.

The defendant is accused on the paragraph no 238/2. If find guilty they will be penalised to lifetime imprisonment or death. There fore there appeal no 3. is rejected.

Concerning their appeal no. 4, the enquiry commission was set up just to investigate whether excessive force was used or not. It was not set up to find out the guilty party. Beside this kind of argument should not be presented during decision on bail right. There fore this appeal is rejected.

To the appeal that the court should see the evidences deeply rather than accepting the accusation of the prosecutor, criminal code no. 63 does not allow this. The court should investigate the evidences if the defendants reject the accusation and after the prosecutor finished presenting its evidence.

There fore, based on the above reasons, we have decided to reject the defendant's right to bail.